

ORDINANCE NO. _____

AN ORDINANCE OF THE VICE MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29, OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE III, DIVISION 2, ENTITLED "GENERAL DEVELOPMENT REVIEW PROCEDURES", SPECIFICALLY AT SECTION 3-210, ENTITLED "CERTIFICATE OF RE-OCCUPANCY" REQUIRING A CERTIFICATE OF RE-OCCUPANCY EACH TIME THERE IS A TRANSFER OF TITLE OF REAL PROPERTY TO ENSURE COMPLIANCE WITH THE ZONING DISTRICT REQUIREMENTS SET FORTH IN THE LAND DEVELOPMENT REGULATIONS, AND ALLOWING FOR THE ISSUANCE OF CONDITIONAL CERTIFICATES OF RE-OCCUPANCY WHERE LIFE SAFETY VIOLATIONS EXIST; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of North Miami ("City") currently requires the issuance of re-occupancy certificates upon the sale of residential properties; and

WHEREAS, the City Administration wishes to ensure that prior to a residential property being conveyed to a new ownership, that the city is able to confirm that the property meets the current city zoning requirements; that the premises are being used solely for residential purposes; and that the premises have not been unlawfully altered, in violation of the City's zoning codes; and

WHEREAS, the Vice Mayor as Acting Mayor and City Council have determined it is in the best interest of the residents of the City to revise the current re-occupancy certificate standards to only allow for inspections regarding dwelling use and zoning district issues; and

WHEREAS, it is further recommended that the City allow for conditional certificates of re-occupancy where life safety violations exist, so that potential buyers of real estate in the City will have the ability to purchase blighted properties and renovate them in accordance with the building standards established in the City's Code as well as the Florida Building Code.

NOW THEREFORE, BE IT ORDAINED BY THE VICE MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. The Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 29, of the City of North Miami Code of Ordinances, entitled "Land Development Regulations", by amending Article 3, Division 2, entitled "General Development Review Procedures," specifically at Section 3-210, entitled "Certificate of Re-Occupancy" as follows:

CHAPTER 29. LAND DEVELOPMENT REGULATIONS

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ARTICLE 3. DEVELOPMENT REVIEW

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DIVISION 2. GENERAL DEVELOPMENT REVIEW PROCEDURES

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Section 3-210. Certificate of Re-occupancy.

A. Purpose.

The purpose of this Section is to ensure that prior to a residential property being conveyed to a new ownership, that the city is able to confirm that the property meets the current city zoning requirements; that the premises are being used solely for residential purposes; that the premises have not been unlawfully altered in violation of the city's zoning codes; and that there are no life safety violations existing on the property.

B. Single-family, duplex, triplex.

~~A certificate of re-occupancy is required each time there is any transfer of title of a residential building, whether single-family, duplex, triplex, condominium unit, or apartment building. Both the seller and the buyer are responsible for obtaining a certificate of re-occupancy. A certificate of re-occupancy is required to ensure that structures originally built for residential use are still utilized for that purpose and are in compliance with the requirements of these land development regulations and the city's building and life safety codes. The city manager shall have the authority to enter into settlement agreements and issue conditional certificates of reoccupancy, which shall be executed by the buyer. Conditional certificates, where life safety violations exist, shall be subject to terms set by the building official.~~

~~*Penalties.* Any property for which an approved re-occupancy certificate is not obtained prior to the transfer of title shall be subject to a fine equivalent to the expedited application fee, payable at the time the late application is filed.~~

It shall be unlawful for any person, entity or corporation to buy, sell, convey or transfer a single-family, duplex or triplex dwelling unit, unless a certificate of re-occupancy has been issued by the director of the building and zoning department or his designee. The certificate of re-occupancy, if issued, shall state that the director or his designee has inspected the dwelling and has determined that the dwelling meets the provisions of the Land Development Regulations of the city pertaining solely to the requirement that each individual unit is used, designed or intended to be used as a single-family, duplex or triplex dwelling unit, only, and that the unit has not been altered, as required by the zoning district regulation. A certificate of re-occupancy shall not be required for the original transfer or conveyance of a newly constructed single family, duplex, or triplex dwelling unit.

C. Apartment complex.

It shall be unlawful for any person, entity or corporation to buy, sell, convey or transfer an apartment complex consisting of four (4) or more units unless a certificate of re-occupancy has been issued by the director of the building and zoning department or his designee. The certificate of re-occupancy, if issued, shall state that the director or his designee has inspected the dwelling and has determined that the dwelling meets the provisions of the Land Development Regulations of the City pertaining solely to the requirement that each individual unit is used, designed or intended to be used as an apartment unit, only, that the unit has not been altered as required by the zoning district regulation and that the dwelling complies with health and safety criteria as specified by the Building Official. A certificate of re-occupancy shall not be required for the original transfer or conveyance of a newly constructed apartment complex.

D. Certificate of Re-occupancy Application

1. Applications for a certificate of re-occupancy shall be made by the seller or owner or the designated agent, upon a form provided by the city and the payment of an inspection fee.
2. Upon receipt of the application and fee, a city inspector shall inspect the dwelling within ten (10) days and, if such dwelling is found to be in conformance with the provisions of paragraphs (A) or (B) above, a certificate of re-occupancy shall be issued. If the dwelling is not in conformance with such provisions, the director or the director's designee shall indicate by itemized list corrective action and the certificate of re-occupancy shall be withheld unless and until such provisions are complied with, to the reasonable satisfaction of the director or the director's designee.
3. The fee for re-inspection, to be paid by the applicant, shall be promulgated by the City. An expedited inspection fee shall be paid by the applicant, if the applicant requests for an inspection to be completed within five (5) business days of receipt of the application.

E. Restriction on inspection.

Information gained or conditions observed in the course of any inspection conducted pursuant to the authority of this section shall not be utilized by the code compliance officers of the city as the basis for bringing code enforcement violation proceedings other than as to the dwelling use, or zoning violations directly addressed by the inspection made under this ordinance, as applicable.

This shall not preclude other enforcement actions brought upon the basis of information gained or violations observed by other lawful means.

F. Conditional certificate of re-occupancy

A certificate of re-occupancy may not be issued should there be previously existing and cited uncorrected life safety code violations on the dwelling. In the event that there are previously existing and cited uncorrected life safety code violations, a *conditional* certificate of re-occupancy may be issued subject to terms set by the building official. The city manager shall have authority to enter into settlement agreements and issue the conditional certificates of re-occupancy, which shall be executed by the buyer and seller. The fee for a conditional certificate of re-occupancy shall be promulgated by the City

G. Penalties.

Any property for which an approved re-occupancy certificate is not obtained prior to the transfer of title shall be subject to a fine equivalent to the expedited application fee, payable at the time the late application is filed plus any fines assessed by the code enforcement special magistrate under code enforcement violation proceedings.

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Section 2. Repeal. All ordinances or parts of ordinances in conflict herewith are repealed.

Section 3. Conflicts. In the event that the provisions of this Ordinance are in conflict with any other ordinance, rule or regulation, the provisions of this Ordinance shall prevail.

Section 4. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Codification. It is the intention of the City Council of the City of North Miami and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by a _____ vote of the Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, on first reading this _____ day of September, 2014.

PASSED AND ADOPTED by a _____ vote of the Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, on second reading this _____ day of October, 2014.

PHILIPPE BIEN-AIME
VICE MAYOR ACTING AS MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Sponsored by: _____

Vote:

Vice Mayor acting as Mayor Philippe Bien-Aime
Councilperson Scott Galvin
Councilperson Carol Keys, Esq.
Councilperson Marie Erlande Steril

_____ (Yes)	_____ (No)
_____ (Yes)	_____ (No)
_____ (Yes)	_____ (No)
_____ (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.